IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

THURSDAY, THE 22ND FEBRUARY 2007 / 3RD PHALGUNA 1928

WP(C).No. 6082 of 2007(Y)

PETITIONERS:

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1. MUHAMMED KUTTY, S/O.KOLUPARAMBAN
   MUHAMMED MUSLIAR, IRUMBUCHOLA,
   A.R.NAGAR. P.O., THIRURANGADI TALUK.

2. GAFOOR, S/O.ARRIKKADAN MUHAMMED
   KANNAMANGALAM VILLAGE,
   THIROORANGADI TALUK.

3. MOIDU, S/O.THURKKIKUNJU MOIDEEN,
   MATHAPARAMBATH,OORAKOM, ERANAD TALUK,
   (PETITIONERS 1 TO 3 REPRESENTED BY HIS POWER
   OF ATTORNEY HOLDER SIDIQUE).

4. MUHAMMED ALI HAJI, S/O.KOYAKUTTY HAJI,
   VENGARA VILLAGE, THIROORANGADI TALUK,
   MALAPPURAM DISTRICT, REPRESENTED BY HIS
   POWER OF ATTORNEY HOLDER
   MUHAMMED ALI.

BY ADV. SRI.G.HARIHARAN
SRI.PRAVEEN.H.

RESPONDENTS:

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1. TAHSILDAR (R.R.) TALUK OFFICE,
   NILAMBUR, MALAPPURAM DISTRICT.

2. M/S. MANNA GOAT FARM,
   WANDOOR, REPRESENTED BY ITS MANAGING PARTNER
   ABDUL KHADER WANDOOR, MALAPPURAM DISTRICT.

3. T.B. MUSTHAFA, AISHAGHAR,
   NEAR T.B. HOUSE, MANNA,
   VALAPPATTANAM P.O., KANNUR-10.

BY GOVT. PLEADER SRI.MOHAMMED RAFIQ - R1

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 6082 OF 2007-Y

JUDGMENT

The petitioners had purchased various extents of land from the 2nd respondent in 1996. The said respondent is an accused in a private complaint for cheating, filed by the 3rd respondent. Since the Manging Partner of the 2nd respondent did not appear in that criminal case, the learned Magistrate has taken action under Sections 82 and 83 of the Criminal Procedure Code. As a result, the properties of the 2nd respondent have been attached under Section 83. The attachment has been effected by the revenue official concerned, by Ext.P6 notice. This Writ Petition is filed, challenging Ext.P6.

2. The remedy of the petitioners is to object to the order of the learned Magistrate, passed under Section 83 of the Cr.P.C. But, the learned counsel for the petitioners submits that the six months' time limit prescribed under Section 84(1) is over. There is a recent decision of this Court in **Pharma Kuries (P) Ltd. v. T.J.Soju & Ors.** [2006 (3) KLJ 585] that Section 5 of the Limitation Act will apply to claim petitions filed under Section 84(1) of the Cr.P.C. In view of the said position, the

petitioners can file objections before the learned Magistrate for lifting the attachment. If they are dissatisfied with the orders passed on their objections, they have other remedies under the Code also. Accordingly, the Writ Petition is closed without prejudice to the contentions of the petitioners.

22nd February, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/